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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,104	07/22/2003	Robert K. Buchheim	711-002US	8890
22897	7590	11/19/2004	EXAMINER	
DEMONT & BREYER, LLC SUITE 250 100 COMMONS WAY HOLMDEL, NJ 07733			GARTENBERG, EHUD	
			ART UNIT	PAPER NUMBER
			3746	

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/625,104

Applicant(s)

BUCHHEIM, ROBERT K.

Examiner

Ehud Gartenberg

Art Unit

3746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-33 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/24/2003</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

***Election/Restrictions***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - A. Claims 1-26, drawn to either a valve classified in either of the following subclasses (251/298, 304, 30.05) or a solid propellant gas generator, classified in class 60, subclass 254.
  - B. Claims 27-33, drawn to a method of valving, classified in class 137, subclass 1.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions A and B are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the method as claimed can be practiced with the following distinctly different products: relative to claims 1 and 25 - with a flow that is parallel to the axis of rotation; relative to claim 7 - with a flow that is perpendicular with the axis of the rotor; relative to claim 9 - with a rotor that does contact the seating surface in a first position; relative to claim 15 - with a rotor that is sensitive to g-loads; relative to claim 24 - with a rotor that rotates more than 10 degrees between a first position and a second position; relative to claim 26 - with a steam boiler.

3. Because these inventions are distinct for the reasons given above and the search required for Group A is not required for Group B, restriction for examination purposes as indicated is proper.

4. Should applicant elect Group A, restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claim 26 drawn to solid propellant gas generator, classified in class 60, subclass 254. Claims 1-6 and 25 will be examined with claim 26, because all the limitations of claims 1 and 25 are included in claim 26; claims 1 and 25 are classified in class 251 subclass 298.

II. Claims 7-24 drawn to a pivoting valve that is the pilot for a second valve, classified in class 251, subclass 30.05.

Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because: relative to claim 7 - the flow is perpendicular to the pivot axis and does not need to be aligned with the long axis of the rotor; relative to claim 9 - the rotor can contact the seat surface in a first position; relative to claim 15 - the valve of the gas generator can be sensitive to g-loads; relative to claim 24 - the rotor can pivot more than 10 degrees between a first position and a second position. The subcombination has separate utility such as use with a steam boiler.

5. Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

6. This restriction requirement is summarized as follows: Applicant should elect between either of apparatus invention A and method invention B. Should he elect apparatus invention A, Applicant is further required to elect between either of inventions I and II.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

7. A telephone call was made to Wayne Breyer on 11/18/2004 to request an oral election to the above restriction requirement, but did not result in an election being made.

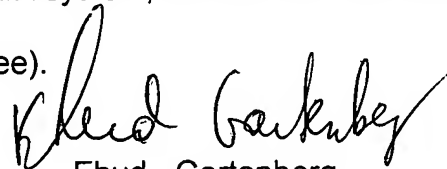
### ***Drawings***

8. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the drawings on file were objected by the draftsman. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ehud Gartenberg whose telephone number is 703/308-2634. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 703/306-2772. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Ehud Gartenberg  
Primary Examiner  
Art Unit 3746